C.J. ’s Court

Writ Petition No. 63 of 2002 (S/B)

Hari Dutt Upadhyaya ……. Petitioner

Vs.

State of U.P. through Principal Secretary, Transport Department, U.P. Shasan Lucknow and 5 others ……. Respondents

…….

Hon. A.A. Desai, C.J.
Hon. Irshad Hussain, J.

Heard Sri Manoj Tewari, learned counsel for the petitioner, Sri Brahm Singh, learned counsel for the U.P. State and Sri A.N. Sharma, learned counsel for the U.P.S.R.T.C.

Initially the petitioner was recruited in the office of the Transport Commissioner, U.P. Lucknow. Subsequently U.P. State Road Transport Corporation was formed. Since 1972, he is rendering services in the Corporation. He has reached the age of superannuation, as prescribed for the employees of Corporation.

The petitioner by the instant petition canvassed a grievance that since there was no express option exercised by the petitioner, he continues to be a Government employee and as such his age of superannuation is 60 years and, therefore, his retirement as caused on attaining the age of 58 years is per se illegal. The submission is devoid of substance and merit, both. As per the Circular Letters and Rules pointed out to us in case of failure of exercise of option, the petitioner would have suffered the consequence of termination from the Government. He rendered the services for a period of about 30 years in the Corporation without any demur or complaint. As such, even in absence of any express exercise of option, he has accepted employment of the Corporation and, therefore, at the fag end, he can not indulge in approbate and reprobate.

The petition is, therefore, dismissed.

Sd/- Sd/-

Dt. 2.4.2002

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